

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RYAN K. ROZAK,

Plaintiff,

v.

RANDALL HEPP, et al.

Defendants.

ORDER

Case No. 15-cv-134-jdp

On March 3, 2015, this court entered an order assessing plaintiff an initial partial payment of the filing fee for this case, which was due on March 23, 2015. Rather than pay the initial partial filing fee, plaintiff has submitted a motion to use his release account funds to pay the entire filing fee. (Dkt. #5).

The language of 28 U.S.C. § 1915(b)(1) requires prison officials to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, I must deny plaintiff's motion because except for initial partial payments, this court does not have the authority to tell state officials to withdraw money from a release account.

ORDER

IT IS ORDERED that:

1. Plaintiff Ryan K. Rozak's motion for an order directing prison officials to pay the entire \$350 filing fee in this case from his release account (dkt. #5), is DENIED.
2. Plaintiff may have an enlargement of time, to April 20, 2015, to pay his \$108.49 initial partial payment. If plaintiff does not have the money to make the initial

partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account.

3. If, by April 20, 2015, plaintiff fails to make the initial partial payment or show cause for failure to do so, I will assume that he wishes to withdraw this action voluntarily and the case will be closed without prejudice to plaintiff's refiling it at a later date.

Entered this 27th day of March, 2015.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge